

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

IN RE: DIGITEK PRODUCT LIABILITY
LITIGATION

MDL NO. 1968

THIS DOCUMENT RELATES TO ALL CASES

AFFIDAVIT OF MATTHEW P. MORIARTY

1. My name is Matthew P. Moriarty. I am co-lead counsel for the Actavis Defendants. I am licensed to practice law in the States of Ohio, West Virginia, and Florida.


2. The original deadline to depose Plaintiffs' experts in the *Johnson* case in Oklahoma was July 1, 2011. Accordingly, on April 4, 2011 I sent an email to opposing counsel asking for dates when David Bliesner, Ph.D. was available for deposition. The email is attached as Ex. A. There were additional exchanges by letter to follow up on that email.

3. Having received no dates, on May 27, 2011 I sent a follow-up email requesting dates.


4. Because of fact discovery delays, an illness of Dr. Bliesner, and the usual problems coordinating schedules amongst many lawyers, the deadline for deposing Dr. Bliesner ultimately got moved. We did not receive a firm date for his deposition until August 9, 2011. The first available date we received for Dr. Bliesner's deposition was September 19, 2011. We immediately accepted that date. (The email exchange about that is attached as Ex. B.)

5. All of these efforts to secure the deposition of Dr. Bliesner in the *Johnson* case occurred long before the Plaintiffs in the MDL submitted Dr. Bliesner's Supplemental Affidavit as part of their Brief in Opposition to the *Daubert* Motions.

Further affiant sayeth naught.


MATTHEW P. MORIARTY

SWORN TO AND SUBSCRIBED in my presence this 4th day of October, 2011.


NOTARY PUBLIC

HUGH M. STANLEY, JR., Attorney
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date.
Section 147.05 R.C.

Moriarty, Matthew

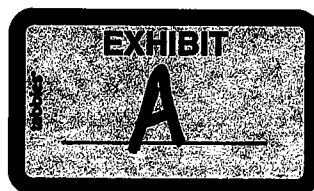
From: Moriarty, Matthew
Sent: Monday, April 04, 2011 4:32 PM
To: Ryan Deligans; Brad Miller
Cc: 'Ahern, Hunter K. (SHB)'; 'tsteichen@ecslok.com'; dmcphail@oklahomacounsel.com
Subject: Johnson

Gentlemen,

I know there are a lot of discussions afoot about corporate depositions. I'd like to talk about several other people. First, Carol Strayer, the Johnsons' neighbor. Second, we would like to re-depose Sam Johnson. We'd like to do those two in April, the sooner the better. Finally, and this is long term, please start to get dates from Dr. Lazarra and Mr. Bliesner in May and early June.

I am confident that others will weigh in with depositions I may be forgetting. Thank you.

Matthew P. Moriarty
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10/4/2011

Graff, Nancy

From: Anderton, Michael
Sent: Tuesday, August 09, 2011 6:41 PM
To: 'dmcphail@oklahomacounsel.com'; 'bmiller@dlb.net'; Moriarty, Matthew; 'HAHERN@shb.com'; 'tsteichen@ecslok.com'; 'sdrewes@shb.com'
Cc: 'rdeligans@dlb.net'; 'kburleson@dlb.net'; 'lsmithpeter@dlb.net'; 'Nancypotter@oklahomacounsel.com'; 'denasandborn@oklahomacounsel.com'
Subject: Re: Johnson v. Actavis-----Dr. David Bliesner [IWOV-OKC.FID466102]

September 19 works for Actavis

Please include me on additional email correspondence regarding this deposition.

Michael

From: dmcphail@oklahomacounsel.com <dmcphail@oklahomacounsel.com>
To: 'Brad Miller' <bmiller@dlb.net>; Moriarty, Matthew; 'Ahern, Hunter K. (SHB)' <HAHERN@shb.com>; 'Tom Steichen' <tsteichen@ecslok.com>; sdrewes@shb.com <sdrewes@shb.com>
Cc: 'Ryan Deligans' <rdeligans@dlb.net>; 'Kathrine D. Burleson' <kburleson@dlb.net>; 'Lori D. Smithpeter' <lsmithpeter@dlb.net>; Anderton, Michael; 'Nancy Potter' <Nancypotter@oklahomacounsel.com>; denasandborn@oklahomacounsel.com <denasandborn@oklahomacounsel.com>
Sent: Tue Aug 09 18:18:47 2011
Subject: RE: Johnson v. Actavis-----Dr. David Bliesner [IWOV-OKC.FID466102]

Thanks for getting back to us Brad. I can depose Mr. Bliesner on September 19. As I will be out of state all of the prior week, I would like to know where the deposition where be as soon as possible so we can make sure that other travel plans don't make the deposition impossible.

Having just gotten your email I tried to call you but was advised you were in a meeting. Now that we have a date for Bliesner, assuming everyone else can make this work, I would like to confirm this before Friday morning so that we can talk a little more intelligently to Judge Owens about the motion. Not being able to depose Mr. Bliesner until 9/19 will probably require us to orally amend the pending motion to ask for more than 30 days on these 2 deadlines but I will confer with the other defendants about that.

I am still available if you want to discuss. Otherwise, we can just hash this out Friday morning.

David.

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From: Brad Miller [mailto:bmiller@dlb.net]
Sent: Tuesday, August 09, 2011 4:31 PM
To: Moriarty, Matthew; Ahern, Hunter K. (SHB); Tom Steichen; dmcphail@oklahomacounsel.com; sdrewes@shb.com

10/4/2011



Cc: Ryan Deligans; Kathrine D. Burleson; Lori D. Smithpeter

Subject: Johnson v. Actavis-----Dr. David Bliesner [IWOV-OKC.FID466102]

I spoke to David Bliesner Sunday night. He has completed his treatment course and feels better (but not well). He believes he will be able to adequately review what is at issue in this case and sit for a deposition by mid September (his other work has suffered because of his illness and he will be catching up on several things during this time). He can hold Monday, September 19th for deposition, although he is not currently sure in what state he will be on that date as he is getting back to a heavy travel schedule.

I hope you all can make this work. We are doing what we can to keep things on track for our trial date. I apologize for the inconvenience this has caused for everyone and thank each of you for your patience in waiting out both Dr. Lazarra and Dr. Bliesner's medical issues. If the date can be accommodated, I will quickly push to determine where the deposition will take place. Of course, we will gladly dispense with any formalities of service, etc.

Thank you,

Brad

10/4/2011